

S. 3516
OUTER CONTINENTAL SHELF REFORM ACT OF 2010

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SECTION 2 – PURPOSES

The purposes of the Act are to reform the responsibilities of the Secretary of the Interior with respect to the management of the Outer Continental Shelf (OCS); to provide independent and effective science-based development and enforcement of safety and environmental law related to activities on the OCS; and to prevent conflicts of interest and ensure a fair return to the taxpayer from OCS-related revenue collection activities.

SECTION 3 – DEFINITIONS

This Act primarily amends the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331 et seq.). Definitions for the purposes of this Act are identical to those utilized in OCSLA. This Act also adds a definition to the OCSLA of “safety case” which describes the evidentiary showing that will be required to permit a well and will demonstrate the safety of the entire system in the location involved.

SECTION 4 – NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

This section amends the OCSLA to recognize that the OCS is a vital national resource to be managed to recognize and protect all of its values: energy, food, minerals, protection of the marine and coastal environmental and human health and safety. The section further provides that energy development on the Outer Continental Shelf is to be allowed only when it can be done in a manner that protects life, health, the environment and the interests of other users of the waters, seabed or subsoil.

SECTION 5 – STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT

Establishment of Bureaus -- Section 5 amends the OCSLA to add a new section to establish bureaus within the Department of the Interior to conduct activities previously conducted by the Minerals Management Service. The section provides that the Secretary shall establish not more than two bureaus to carry out the leasing, permitting, and safety and environmental regulation functions related to the OCS. The Secretary is required to ensure to the maximum extent practicable that any potential organizational conflicts of interest are eliminated. The section also requires the Secretary to establish within the Department of the Interior an office to carry out the royalty and revenue management functions vested in the Secretary by the OCSLA and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, et seq.). The bureaus and the office established pursuant to this section are each to be headed by a Director appointed by the President by and with the advice and consent of the Senate.

OCS Safety and Environmental Advisory Board -- Section 5 also requires the Secretary of the Interior to establish an Outer Continental Shelf Safety and Environmental Advisory Board to provide the Secretary and the bureau Directors with independent scientific and technical advice on safe and environmentally compliant energy and mineral resource exploration, development and production activities.

Special Authorities for Hiring Critical Personnel -- The section provides special personnel authorities for the direct hiring of critical personnel, including highly qualified accountants, scientists, engineers, or critical technical personnel. The authorities include critical pay authority and authority to reemploy civilian retirees. The section imposes certain limitations on the terms of employment for the employees hired under these special authorities. The section also provides for continuity of authorities and conforming amendments.

SECTION 6 – SAFETY, ENVIRONMENTAL, AND FINANCIAL REFORM OF THE OUTER CONTINENTAL SHELF LANDS ACT

This section amends several sections of the OCSLA to modify safety, environmental and financial requirements.

Regulations for Safety and Environment -- Section 5 of the OCSLA is amended to require the Secretary to prescribe and amend rules and regulations to provide for operational safety and the marine and coastal environment.

Review of Financial Responsibility and Fiscal Terms and Systems -- Section 6 of the OCSLA is amended to require the Secretary to review periodically minimum bond amounts and set bonds, surety, or other evidence of financial responsibility in amounts adequate to permit lessees to fulfill all obligations under the OCSLA and the Oil Pollution Act of 1990 (33 U.S.C. 2701, et seq.). The section is further amended to require a periodic review of rental and royalty rates for leases under the OCSLA. The section is amended to require a comparative review of fiscal systems of the United States and other resource owners, including states and foreign nations, for offshore oil and gas, including requirements for bonus bids, royalties, rentals, fees, and taxes.

Bidding Qualification -- Section 8 of the OCSLA is amended to provide that no bid for a lease may be submitted by any entity that the Secretary finds is not meeting due diligence, safety, or environmental requirements on other leases, or is a responsible party for a vessel or facility from which oil is discharged for purposes of section 1002 of the Oil Pollution Act of 1990 and has failed to meet the obligations of the responsible party under that Act.

Exploration Requirements -- Section 11 of the OCSLA is amended to replace the requirement that the Secretary approve an exploration plan within 30 days with a requirement that for leases issued under a sale held after March 17, 2010, the deadline for approval is 90 days except that an additional 180 days may be taken if the Secretary makes a finding that additional time is necessary to complete any environmental, safety,

or other reviews. The Secretary may extend the deadline with the consent of the lessee for leases issued under a sale held on or before March 17, 2010. The section is amended to specify certain additional requirements for the exploration plan, including a statement of the design of major safety-related equipment, a statement demonstrating the equipment meets the best available technology requirements, a scenario for the potential blowout of the well involving the highest potential volume of liquid hydrocarbons, and a description of the response plan to control the blowout and manage the accompanying discharge of hydrocarbons. Before conducting exploration activities in water depths greater than 500 feet, the lessee must submit to the Secretary for approval a deepwater operations plan prepared by the lessee, which must be based on best available technology to carry out the exploration activity and blowout response plan. The plan cannot be approved unless it includes a technical systems analysis as specified, including blowout prevention technology and blowout and spill response plans. Section 11 is further amended to provide that the Secretary require that the lessee obtain a drilling permit prior to drilling a well under an exploration plan and before significantly modifying a well design originally approved by the Secretary. The Secretary may not grant any drilling permit until the date of completion of a full engineering review of the well system and the approval of a safety and environmental management plan that specifies the expertise and experience level of crew members who will be present on the rig and requires that not later than May 1, 2012, all employees on the rig meet certain training and experience requirements. Section 11 is modified to require that the Secretary shall disapprove an exploration plan if the Secretary makes certain determinations and to make certain provisions relating to compensation apply.

Outer Continental Shelf Leasing Program -- Section 18 of the OCSLA is amended to include the consideration of protection of marine and coastal environment and resources in developing the schedule for leasing on the OCS, and to ensure that equal consideration is given to certain factors in developing the oil and gas leasing program. The section is amended to require that additional items be considered in estimating the appropriations and staff needed to carry out the leasing program.

Section 18 is further amended to require that the Secretary include in the submission of the leasing plan and comments received to Congress and the President an indication of why any specific recommendation of an interested Federal agency was not accepted. The section is also amended to list additional information that may be obtained by the Secretary in preparing an environmental impact statement and other evaluations required by the section. Section 18 is further amended to require that the Secretary carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the OCS and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner. This may include activities to provide accurate resource estimates. These activities are not to be considered leasing or pre-leasing activities.

Environmental Studies -- Section 20 of the OCSLA is amended to require the Secretary to carry out programs for the collection, evaluation and dissemination of environmental and other resource data relevant to carrying out the Act. The program shall be carried out

in a manner that is programmatically separate and distinct from the leasing program and provide for external scientific review of studies. The section is further amended to require an environmental study every three years of any area or region included in any oil and gas lease sale.

Safety and Health Regulations, Training and R&D -- Section 21 of the OCSLA is amended to require not later than May 1, 2011, and every three years thereafter, a study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of minerals on the OCS. The section is modified to require on all new drilling and production operations and to the maximum extent practicable on existing operations the use of the best available and safest technologies and practices if the failure of the equipment would have a significant effect on safety, health, or the environment. Section 21 is amended to provide that the Secretary promulgate regulations requiring a safety case to be submitted along with each new application for a permit to drill.

Section 21 is modified to require the Secretary to issue regulations no later than May 1, 2011, setting standards for training for all workers on offshore facilities conducting energy and mineral resource exploration, development, and production operations on the OCS. The standards shall require that any worker have less than 5 years of applied experience pass a certification requirement after receiving appropriate training. Section 21 is also amended to require that the Secretary carry out a program of research, development and risk assessment to address technology and development issues associated with OCS energy and mineral resource activities. The Secretary shall carry out programs to facilitate the exchange and dissemination of scientific and technical information and best practices. The Secretary is directed to carry out programs to cooperate with international organizations and foreign governments to share information and best practices related to management of safety and environmental issues associated with energy and mineral resource exploration, production and development on the OCS. The Secretary is to create a program within the appropriate bureau that will be programmatically separate and distinct from the leasing program to carry out these studies and activities and to provide for external scientific review.

Enforcement of Safety and Environmental Regulations -- Section 22 of the OCSLA is amended to require investigations of each loss of well control, blowout, activation of a blowout preventer, and other accident that presents a serious risk to human or environmental safety. The section is further amended to provide that the lessee shall cooperate with the investigation as a condition of the lease. The section is amended to require the Secretary to investigate any allegation of the existence of a violation of a safety regulation issued under the OCSLA from an employee of a lessee or a subcontractor. Section 22 is amended by adding a provision authorizing the National Transportation Safety Board to conduct, at the request of the Secretary, an independent investigation of certain accidents occurring on the OCS and involving activities under the OCSLA. The Secretary is required to make available to lessees and the public in a public database technical information about the causes and corrective actions taken for all incidents investigated under this section. Section 22 is amended to require the collection

of a non-refundable inspection fee which shall be deposited in the Ocean Energy Enforcement Fund. The Secretary shall establish the fee by regulation at a level necessary to offset the annual expenses of the inspections. Monies from the Fund may be expended only for inspections and shall be subject to appropriation. The Secretary is required to prepare a report on the operation of the Fund and to submit the report to the Congress.

Remedies and Penalties -- Section 24 of the OCSLA is amended to increase civil administrative penalties from \$10,000 per day of the continuance of the violation to \$75,000 per day of the continuance of the violation. The civil penalty amount shall be adjusted annually to reflect any increases in the Consumer Price Index. The section is amended to increase the criminal penalty from not more than \$100,000 per violation to not more than \$10,000,000, adjusted annually to reflect any increases in the Consumer Price Index. The section is amended to expand criminal liability of officers and agents of a corporation or other entity under existing law to include criminal penalties for authorizing, ordering, or carrying out proscribed activities with “reckless disregard”.

Oil and Gas Development and Production -- Section 25 of the OCSLA is amended to make the Gulf of Mexico subject to the same oil and gas production and development requirements that apply to the other areas of the OCS.

SECTION 7 – REFORM OF OTHER LAWS

Mapping Initiative -- This section amends section 388(b) of the Energy Policy Act of 2005 (43 U.S.C. note) to provide that with respect to the coordinated mapping initiative any head of a Federal agency is required, on the request of the Secretary of the Interior, to provide data and information that the Secretary determines is necessary to the mapping initiative, except the agency head is not required to provide privileged or confidential information.

Research Funding -- Section 999H(d) of the Energy Policy Act of 2005 (42 U.S.C. 16378(d)) is amended to provide that 25 percent of the funds under that program are to be used for the research activities provided for under sections 20 and 21 of the OCSLA.

SECTION 8 – SAVINGS PROVISION

The section provides that all regulations, rules, contracts, and other actions issued, made or taken by or pursuant to the authority of any law that resulted in the assignment of functions to the Secretary, the Director of the Minerals Management Service or the Department, that were in effect on the date of enactment of this Act, remain in full force and effect after the date of enactment of this act. Section 8 further provides that this Act does not amend or alter the provisions of other applicable laws, unless otherwise noted.

SECTION 9 – BUDGETARY EFFECTS

The section addresses the determination of budgetary effects of the legislation.